

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of ANTHONY J. McKINNEY,  
Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ZEPHORIA McKINNEY,

Respondent-Appellant,

and

MAURICE WADE,

Respondent.

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In the Matter of JOSE McKINNEY, Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ZEPHORIA McKINNEY,

Respondent-Appellant,

and

PAUL JOSE LOPEZ,

Respondent.

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In the Matter of CHAUNCEY ELLIOTT, Minor.

UNPUBLISHED  
October 13, 2005

No. 261068  
Kent Circuit Court  
Family Division  
LC No. 03-055039-NA

No. 261069  
Kent Circuit Court  
Family Division  
LC No. 03-055040-NA

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ZEPHORIA McKINNEY,

Respondent-Appellant,

and

HAROLD ELLIOTT,

Respondent.

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No. 261070

Kent Circuit Court

Family Division

LC No. 03-055041-NA

Before: Talbot, P.J., and White and Wilder, JJ.

PER CURIAM.

Respondent Zephoria McKinney appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Respondent does not contest the sufficiency of the evidence to establish a statutory ground for termination but contends that the termination of her parental rights was contrary to the best interests of the children. Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court shall order termination of parental rights, unless the court finds from evidence on the whole record that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). The trial court's decision regarding the child's best interests is reviewed for clear error. *Id.* at 356-357.

The trial court did not clearly err in finding that the termination of respondent's parental rights was not clearly contrary to the best interests of the children. Respondent has a lengthy history of criminality and substance abuse. Her criminal history dates from 1992 and includes soliciting prostitution and gross indecency, seatbelt violations, probation violations, possession of marijuana, retail fraud, and attempted armed robbery. During a period of probation, respondent entered two drug treatment programs but did not complete either of them. Respondent's two youngest children were born testing positive for cocaine. Respondent also has a significant history of involvement with child protective services, with services implemented to no avail.

At the time of the termination trial, respondent remained incarcerated with an early out date of September 29, 2005. She complied with her parent agency agreement in prison to the

extent possible, taking anger management and parenting classes, attending NA and AA, and completing one of five tests required to obtain a GED. However, respondent has not entered drug treatment, which would have to begin upon her release. The foster care worker testified that upon her release respondent would also need domestic violence counseling, further parenting and anger management classes, budgeting assistance, and referrals for housing and employment. Because respondent would have no home or income upon her release, and had not demonstrated any skills learned while incarcerated, she would have to demonstrate stability for six months to one year after her release for reunification to be considered. Since her earliest release was at least nine months away at the time of the termination trial, the earliest possible reunification was then fifteen to twenty-one months in the future; and given respondent's history of unsuccessful intervention and services while outside of prison, it appears that this substantial delay in permanency for the children would be undertaken in hopes of future stability on the part of respondent that is far from certain.

The testimony indicated that the children have a strong bond with respondent, who has corresponded with them regularly by letter. They love her and like contact with her. However, the children have been unstable for years and strongly feel their lack of permanency. They have been in at least four placements during the current matter, including with their maternal aunt. Even before the current matter, Anthony and Jose were in the care of their aunt during a previous incarceration of respondent mother.<sup>1</sup> The foster care worker opined that if the bond between respondent mother and the children is broken it will be painful for the children, but it will give them an opportunity to heal and to have a chance at a healthy, stable life. This is a painful case; however, given the children's long term lack of permanency, the prospect of a minimum delay to the children's permanency of fifteen to twenty-one months, and respondent's uncertain prospects for continued stability and sobriety thereafter, the trial court did not clearly err in finding that termination was not clearly contrary to the best interests of the children.

Affirmed.

/s/ Michael J. Talbot

/s/ Helene N. White

/s/ Kurtis T. Wilder

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<sup>1</sup> Respondent argues that termination was improper where the alternative of a guardianship with the children's maternal aunt existed. However, the record indicates that the aunt was reluctant to enter a guardianship because she would not be reimbursed for the children's care, and because respondent had harassed her for the return of the two older children under an earlier guardianship. In any event, a guardianship with the maternal aunt became unfeasible when one of the children was suspended from school for an indefinite period and the aunt relinquished care of the children. Placement of the children in foster care with the aunt was impracticable for the same reason.